

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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HENRY FROMETA GONZALEZ,

Plaintiff,

v.

JAMES G. COX, *et al.*,

Defendants.

Case No. 3:15-cv-00588-MMD-VPC

ORDER ADOPTING AND ACCEPTING
REPORT AND RECOMMENDATION OF
MAGISTRATE JUDGE
VALERIE P. COOK

Before the Court is the Report and Recommendation of United States Magistrate Judge Valerie P. Cooke (ECF No. 35) ("R&R") relating to Defendants' motion to dismiss (ECF No.23) and Plaintiff's cross-motion for summary judgment (ECF No. 29). The R&R recommends that Defendants' motion to dismiss (ECF No. 23) be granted and Plaintiff's cross-motion for summary judgment (ECF No. 29) be denied. Any objection to the R&R must be filed by December 16, 2016. (ECF No. 35.) To date, no objection to the R&R has been filed.

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a *de novo* determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. See *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard

1 of review employed by the district court when reviewing a report and recommendation to
2 which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,
3 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the
4 view that district courts are not required to review "any issue that is not the subject of an
5 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then
6 the court may accept the recommendation without review. See, e.g., *Johnstone*, 263 F.
7 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to
8 which no objection was filed).


9 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
10 determine whether to adopt Magistrate Judge Cooke's R&R. The R&R recommends that
11 this action be dismissed in its entirety because the claims are barred by the two-year
12 statute of limitations. The Magistrate Judge's recommendation extends to claims
13 asserted against Defendant Michael Fletcher, who has not yet been served. After
14 reviewing the filings in this case, the Court agrees with the Magistrate Judge's
15 recommendation.

16 It is therefore ordered, adjudged and decreed that the Report and
17 Recommendation of Magistrate Judge Valerie P. Cooke (ECF No. 35) is accepted and
18 adopted in its entirety.

19 It is ordered that the Defendants' motion to dismiss (ECF No. 23) is granted.
20 Plaintiff's cross-motion for summary judgment (ECF No. 29) is denied. The complaint is
21 dismissed.

22 It is further ordered that the Clerk enter judgment in accordance with this Order
23 and close this case.

24 DATED THIS 22nd day of December 2016.

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26 
27 _____
28 MIRANDA M. DU
UNITED STATES DISTRICT JUDGE